

3/9/23 1 of 7

Amended Complaint

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Darrell Eley FILED HARRISBURG, PA Civil No. 1:21-CV-02184
Plaintiff, MAR 24 2023

v. PER DEPUTY CLERK

Superintendent Brittain et al., Judge Jennifer P. Wilson
Defendants,

I. Jurisdiction and Venue

1. This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color or state law, of rights secured by the Constitution or the United States.

2. The United States District Court for The Middle District of Pennsylvania is an appropriate venue under 28 U.S.C. Section 1331(b)(2) because it is where the events giving rise to this claim occurred.

II. Plaintiffs

3. Plaintiff, Darrell Donta Eley, is and was at all times mentioned herein a prisoner of the State of Pennsylvania in the custody of the Pennsylvania Department of Corrections. He is currently confined in SCZ- Forest in Marienville PA.

Amended Complaint

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Darrell Eley

FILED
HARRISBURG, PA

Civil No. 1:21-CV-02184

Plaintiff, MAR 24 2023

V. PER 2B2
DEPUTY CLERKSuperintendent Brittain et al., Judge Jennifer P. Wilson
Defendants,

I. Jurisdiction and venue

1. This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States.
2. The United States District Court for The Middle District of Pennsylvania is an appropriate venue under 28 U.S.C. Section 1331(b)(2) because it is where the events giving rise to this claim occurred.

II. Plaintiffs

3. Plaintiff, Darrell Dentay Eley, is and was at all times mentioned herein a prisoner of the State of Pennsylvania in the custody of the Pennsylvania Department of Corrections. He is currently confined in SCI Forest in Marienville, PA.

Amended Complaint

1:21-CV-02184

III Defendants

4. Defendant, K. Brittain is the Superintendent of SCI-Frackville. She is legally responsible for the operation of SCI-Frackville and for the welfare of all inmates in that prison.
5. Defendant, S. Kephart is a correctional officer of the Pennsylvania Department of Corrections who, at all times mentioned in this complaint, held the rank of Deputy D.S.C.S and was assigned to SCI-Frackville.
6. Defendant N. Wynder is a correctional officer of the Pennsylvania Department of Corrections who, at all times mentioned in this complaint, held the rank of Deputy D.S.F.m and was assigned to SCI-Frackville.
7. Each defendant is sued individually and in her and his official capacity. At all times mentioned in this complaint each defendant acted under the color of state law.

Amended complaint

1:21-cv-02184

IV. State of Claim

8. ON 11-5-21 IN SCI Frackville I was brought to the RTU and placed on AC under investigation with NO WRITE UP or DC 141 form. It is D.O.C. policy I be served a 802 form within 24 hrs of being place in the RTU. This 24 window does not exclude weekends. I was served a 802 form 80 hrs later violating D.O.C. policy and my 14th Amendment right to due process. It is also D.O.C. policy I have an administrative hearing for AC placement within seven working days of the placement. The standards for such hearings are attached marked exhibit A. I had no such hearing at all never the less meeting D.O.C. ADM 802 policy or the standard set in Wolff. Violating my 14th Amendment rights for the second time. It is 802 policy that confinement for AC investigation purposes shall not exceed 15 calendar days. The facility manager can grant one 15 day extension if the investigation is not complete. The extension must be documented and a copy must be given to the inmate. After 30 days the inmate must be charged with a misconduct or released back to Q.P.

1:21-cv-02184

This policy is attached marked exhibit B.

I remained in the RRU ON AC investigation for 132 days (11-5-21 - 3-17-22) while never being served a 802 15 day extension form and never being charged a misconduct or released to CP violating my 14th Amendment right for a 3rd time.

V Exhaustion of legal remedies

9. I never had a hearing to appeal but I still did my due diligence and wrote PRC to appeal the AC status on 11-6-21 which received no answer. I wrote Superintendent to appeal AC placement on 11-10-21 which also was ignored. I waited over a month before I wrote an appeal to the chief hearing examiner (exhibit attached to original complaint) which was answered but I never received answer until defendants filed their briefs and motions and marked letter along exhibit I further did my due diligence in an attempt to exhaust all remedies and filed several grievances on 11/9/21 and 12/6/21 which were both denied stating I could only appeal under 802 policy which I already did despite the defendants attempts to hinder me.

VI. Legal Claims

10. Plaintiff's reallege and incorporate by reference Paragraphs 1-10.
11. The Not having a hearing per DC-ADM 802 policy or meeting the standards set in Wolff v. McDonnell, not serving me a 802 form within 24 hrs and keeping me in the RHU in AC for 132 days without serving me a write up (DC-141) or an 802 investigation extension form violated Plaintiff Darrell Eley's right to due process under the 14th Amendment to the United States Constitution.
12. The Plaintiff has no plain, adequate or complete remedy at law to redress the wrongs described herein. Plaintiff has been and will continue to be irreparably injured by the conduct of the defendants unless this court grants the declaratory relief which Plaintiff seeks.

VII Prayer for Relief

Wherefore, Plaintiff respectfully prays that this court enter Judgment granting Plaintiff:

Amended Complaint 3/9/23 6 of 7

13. A Declaration to the acts and omissions described herein violated plaintiff's rights under the Constitution and laws of the United States.
14. Compensatory damages in the amount of \$250 per day spent in the RHU (132) totaling \$33,000 against each defendant, Jointly and Severally.
15. Punitive damages in the amount of \$5,000 against each defendant for knowingly violated policy.
16. A Jury trial on all issues triable by jury.
17. Plaintiff's costs in this suit.
18. Any additional relief this court deems just, proper, and equitable.

3/9/23 Respectfully submitted,

Darrell Eley mus/26 SCI-Forest
P.O. Box 307

286 Woodland Drive
Marienville, PA 16239

Amended Complaint 3/9/23 1.21-cv-02184

7 of 7

I have read the foregoing Complaint and
hereby verify that the matters alleged
therein are true, except as to matters alleged
on information and belief, and, as to those, I
believe them to be true. I certify under
the penalty of perjury that the foregoing is
true and correct.

Executed at Marienville Pennsylvania
SCZ - Forest on 3/9/23

Darrell Eley

20P5
Smart Communications /PA DOC
Inmate Name Darrell Cley
SCI Forest
PO Box 33028
St Petersburg, FL 33733

INMATE
MAIL
neopost[®]
03/22/2023
POSTAGE \$000.60

EXHIBIT
ZIP 16239
041L12205275

RECEIVED
HARRISBURG, PA
MAR 24 2023
CITY CLERK
PER

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURTHOUSE
228 WALNUT ST
P.O. BOX 983
HARRISBURG, PA 17108

10P5
Smart Communications /PA DOC
Inmate Name Darrell Cley
SCI Forest
PO Box 33028
St Petersburg, FL 33733

INMATE
MAIL

neopost[®]
03/22/2023
POSTAGE \$000.60

EXHIBIT

ZIP 16239
041L12205275

RECEIVED
HARRISBURG, PA
MAR 24 2023
ST
CITY CLERK
PER

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURTHOUSE
228 WALNUT ST
P.O. BOX 983
HARRISBURG, PA 17108

WOP-5

Smart Communications / PA DOC
Inmate Name Dave G. DC # MW3126
SCI Forest
PO Box 33028
St Petersburg, FL 33733
INMATE MAIL

neopost[®] 03/22/2023 FIRST-CLASS MAIL
041L12205275 **POSTAGE \$000.600**
ZIP 16239

RECEIVED
HARRISBURG, PA
MAR 24 2023
SH
PER DEPUTY CLERK

Office of the Clerk
United States District Courthouse
228 Walnut St
P.O. Box 983
Harrisburg PA, 17108

17108-Subpoena Mail Dept. of Corrections Harrisburg Pa

3 005
Smart Communications / PA DOC
Inmate Name Dave G. DC # MW3126
SCI Forest
PO Box 33028
St Petersburg, FL 33733

INMATE
MAIL

neopost[®] 03/22/2023 FIRST-CLASS MAIL
POSTAGE \$000.600
ZIP 16239

RECEIVED
HARRISBURG, PA
MAR 24 2023
ST
PER DEPUTY CLERK

Office of the Clerk
United States District Courthouse
228 Walnut St
P.O. Box 983
Harrisburg PA 17108

三
〇

Smart Communications / PA DOC
Inmate Name Darre / Eley DC # MU3126
SCI Forest
PO Box 33028
St Petersburg, FL 33733

NAME

הנְּצָרָה

卷之三

DISPENSATION \$000.600

卷之三

ZIP 16239
041L12205275

Office of the Clerk

Office of the
United States District Courthouse
228 Walnut St

RECEIVED
HARRISBURG, PA
MAR 24 2023

United States Post Office
228 Walnut Street
P.O. Box 983

PER
DEPUTY CLERK

Harrisburg, PA 17108

17163-Subcommittee on Dept. of Commerce